



Report to Oxford City Council

**by Shelagh Bussey MA, DipTP, DipEM,
PhD, MRTPI**
an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
Room 3/25 Hawk Wing
Temple Quay House
The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 8128
✉ mail:

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PLANNING & COMPULSORY PURCHASE ACT 2004 SECTION 20

REPORT ON THE EXAMINATION INTO THE OXFORD WEST END AREA ACTION PLAN

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ABBREVIATIONS

AA	Appropriate Assessment
AMR	Annual Monitoring Report
AAP	Oxford West End Area Action Plan
[CD]	Core Document
CPO	Compulsory Purchase Order
Circ 05/2005	Circular 05/2005 Planning Obligations
DAS	Design and access statements
DPD	Development Plan Document
EA	Environment Agency
EIP	Examination in Public
GOSE	Government Office for the South East
ha	hectares
LDF	Local Development Framework
LDS	Local Development Scheme
PPS	Planning Policy Statement
RPG	Regional Planning Guidance
RSS	Regional Spatial Strategy
SA	Sustainability Appraisal
SEEDA	South-East Regional Development Agency
SEERA	South-East England Regional Assembly
SFRA	Strategic Flood Risk Assessment
SEP	South-East Plan
SHLAA	Strategic Housing Land Availability Assessment
SRN	Strategic Road Network
SPD	Supplementary Planning Document
sq m	square metres
WESFRA	West End Strategic Flood Risk Assessment

INTRODUCTION

- 1.1 Under the terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004, the purpose of the independent examination of a development plan document (DPD) is to determine:
 - a. whether it satisfies the requirements of s19 & s24(1) of the 2004 Act, the regulations under s17(7), and any regulations under s36 relating to the preparation of the document;
 - b. whether it is sound.
- 1.2 This report contains my assessment of the Oxford West End Area Action Plan (AAP) on the above matters, along with my recommendations and the reasons for them, as required by section 20(7) of the 2004 Act. Regulation 13(5) of the Town and Country Planning (Local Development) (England) Regulations 2004 requires that where a DPD is intended to replace an old policy, it must state that fact and identify the old policy it is to replace. This requirement is met by Appendix 1 of the AAP.
- 1.3 I consider the soundness of the submitted AAP against the tests of soundness set out in PPS12 (paragraph 4.24). In line with national policy, the AAP is presumed to be sound unless it is shown to be otherwise by evidence considered during the examination. This DPD is divided into two volumes; the policies and proposals are contained in Volume 1 and the 9 Appendices form Volume 2. An accompanying Proposals Map updates the relevant part of the Proposals Map of the adopted Local Plan. The changes to the DPD which I have recommended in this binding report are made only where there is a clear need to amend it in the light of the nine tests of soundness in PPS12. None of them would materially alter the substance of the overall plan and its policies, introduce new factual material or undermine the sustainability appraisal and participatory processes already undertaken.
- 1.4 My report firstly assesses the AAP against the procedural and conformity tests, and then deals with the main planning matters and issues considered during the Examination in terms of the soundness tests of conformity, coherence, consistency and effectiveness. My report does not address individual representations, although these were used as a starting point for identification of the main matters and issues.
- 1.5 As submitted, I conclude that this AAP is unsound; principally due to an absence of a city-wide Strategic Flood Risk Assessment (SFRA) and clear application of the sequential and exception tests of PPS25, its failure to clearly set out the mechanisms for implementation of its policies and proposals, and a lack of robust evidence to support the thresholds for the provision of affordable housing, ceilings for new purpose built student accommodation, additional retail floor space at St Aldate's/Queen Street, and the levels and apportionment of developer contributions required as streamlined contributions.
- 1.6 However, having considered these and other issues at the hearing sessions and in the written statements, including the changes suggested by the Council and in representations, and the completion of a city-wide SFRA during the Examination period, I conclude that the AAP can be amended to overcome these shortcomings and be made sound.
- 1.7 Annex A lists and gives the precise details and wording of all of those changes suggested by the Council, mostly in response to my matters and issues papers and my further questions during the hearing sessions, which I consider are necessary in order to make the AAP sound. These are referred to in this report as (PC//) and are listed in Core Document 81 [CD]. Annex A also contains changes suggested by me, which I consider are also necessary in order to make the AAP sound. They are shown as (IC//). Annex B refers to other changes suggested by the Council and others that are of a minor typographical, grammatical or factual nature, or add clarity, which I endorse because cumulatively they improve the clarity of the AAP, but they do not go to the heart of its soundness. I have generally made no further reference to these in my report. They are also listed in [CD81]. Some changes suggested by the Council and

included in [CD81] appear in neither Annex A nor B of this report. This is because in my opinion they neither go to the heart of the soundness of the AAP nor are of a typographical, grammatical or factual nature. They are therefore unnecessary and I have made no comment on them. All suggested changes that go to the heart of the soundness of the AAP were discussed at the hearing sessions or in further written representations.

1.8 My overall conclusion is that the AAP is unsound but may be made sound subject to it being amended in accordance with all of my recommended changes referred to in this report, which are listed in full in Annex A. The main changes required to make the AAP sound are to:

- **Add a threshold for affordable housing provision applicable to housing developments of 10 and more dwellings.**
- **Remove the numerical ceiling for the provision of purpose-built student accommodation.**
- **Remove the upper ceiling for new retail development at St Aldate's/Queen Street.**
- **To make all references to developer/streamlined contributions accord with Circular 05/2005 Planning Obligations**
- **Replace Appendix 8 – Streamlined Contributions**
- **Replace Appendix 9 – Monitoring Framework**

PROCEDURAL TESTS OF SOUNDNESS

Test i – Consistency with the Local Development Scheme

- 2.1 The AAP appears in the Local Development Scheme 2007-2010 (LDS) [CD52], adopted by the Council in 2007. The targets and milestones for the AAP up to and including the Examination have been met.
- 2.2 The purposes of the AAP, as set out in the LDS are to: identify site specific proposals to stimulate regeneration of the western quarter of the city centre and deliver the policy framework set out in other DPDs, including those identified to meet Oxford's housing need; to identify timing and delivery mechanisms for site specific proposals and to update the Proposals Map. I conclude that the AAP generally conforms to the scope and broad purpose for the document, as set out in the LDS. However, for the reasons that I give and make recommendations upon in section 5.5 of this report, I consider that the AAP fails to adequately identify timing for the delivery of its policies and proposals. Furthermore, its mechanisms for delivery are unsound regarding thresholds for affordable housing and streamlined contributions.
- 2.3 In accordance with the LDS, the AAP has been produced in advance of the Core Strategy, which is not an approach recommended in PPS12. However, the renaissance of the western quarter of Oxford City Centre is identified by the Council as being an urgent priority. Its regeneration is anticipated to be fundamental to the overall long-term success of Oxford as a whole.
- 2.4 The approach of producing the AAP in advance of the Core Strategy is supported by the Government Office for the South-East (GOSE) and the AAP is set within the context of the relatively up-to-date Oxford Local Plan 2001-2016, adopted in November 2005, the Oxfordshire Structure Plan 2016, adopted in 2005, and the emerging Core Strategy, which will be submitted to the Secretary of State for examination in September/October 2008.
- 2.5 Taking these factors into account and having regard to the highly sustainable city centre location of the West End, it is my opinion that the early production of this

geographically tightly-focussed document meets a current need to harness funding and developer interest that would not prejudice or pre-empt the development of options and policies of the Core Strategy for the District.

2.6 Subject to the AAP being amended in accordance with the change reference PC27 that I recommend in section 5.5 of this report it meets soundness test i.

Test ii – Compliance with a Statement of Community Involvement and associated Regulations.

2.7 The Council's Statement of Community Involvement (SCI) [CD55] was adopted in October 2006. However, since the SCI was adopted after the early consultation stages on the AAP were commenced, the Council must comply with the minimum requirements, as set out in the 2004 Regulations.

2.8 From the evidence, I am satisfied that the production of the AAP has involved continuous and wide-ranging community involvement, full details of which are contained in the Consultation Statement [CD2]. This document identifies the processes, results and outcomes of the consultation and stakeholder involvement, and it identifies that the use of a variety of consultation tools and methods, including use of the internet, exhibitions, workshops, questionnaires and press releases has led to a broad range of people and interests becoming involved in the process. The level of local press coverage has also been significant for raising the profile of the project. The term "the West End" is now in common use within the City and is testament to the level of awareness and involvement that has been fostered.

2.9 I am satisfied that the AAP meets the minimum requirements of the 2004 Regulations and that the community has been able and encouraged to participate in its preparation.

2.10 The AAP meets soundness test ii.

Test iii – Sustainability Appraisal and Appropriate Assessment

2.11 A full Sustainability Appraisal (SA) [CD3] was been carried out alongside the production of the AAP. As well as this, Natural England was consulted on the need to carry out an Appropriate Assessment (AA) relating to the Special Area of Conservation at Oxford Meadow. It confirmed that an AA was not required as the policies and proposals of the AAP are not likely to significantly impact on its interest features, or any of the features of special scientific interest that make up the site [CD85].

2.12 The SA was started at the very beginning of the AAP process, in September 2005. The SA Scoping Report [CD9] was consulted on between September and November 2005. As issues were identified through the SA process they were addressed in the drafting of the Preferred Options Document of the AAP [CD8], and are detailed in the SA report. The Preferred Options Document was accompanied by a full SA and was subject to a six-week period of consultation between September and October 2006. Input from the SA was also fed into the submission AAP. The SA report was updated to accompany the Submission AAP and was published alongside it. In addition, it was audited by external consultants to ensure impartiality in the process.

2.13 I am satisfied that the process, baseline information used and the outcomes are properly identified and that the options tested represent real rather than notional differences in policy, also that the AAP complies with the requirement of section 19(5) of the 2004 Act.

2.14 The AAP meets soundness test iii.

CONFORMITY TESTS OF SOUNDNESS

Test iv – Spatial Planning and Conformity with National Planning Policy, Regional Spatial Strategy and other Relevant Local Plans and Policies

- 3.1 Amongst other matters, section 19 (2) of the 2004 Act sets out the national, regional and local policies, and guidance to which a local development document must have regard. These include planning policy and guidance issued by the Secretary of State, the Regional Spatial Strategy (RSS) for the area and other local development documents adopted by the authority.
- 3.2 Paragraphs 1.8 – 1.11 of PPS12 indicates the Government's approach towards spatial planning and how this should be taken into account in the preparation of local development strategies. I am satisfied that the AAP has been prepared in accordance with this guidance. It is directly related to a geographical area, it contains area specific policies, which take a holistic approach to its renaissance that treat it as a single site, and which refer to a broader range of matters than traditional land-use planning considerations.
- 3.3 The close involvement of the West End Partnership, which includes SEEDA and major land owners in the area on the executive committee, in the production of the AAP has been instrumental to broadening the range of issues covered, and throughout the plan reference is made to other non-planning roles of the Council and its partners. The roles of other agencies including for health, education, community safety and other organisations such as the business community and registered social landlords are recognised in the AAP as being key to delivering the vision for the West End. In my opinion, their close involvement and general support is crucially important. I conclude that the AAP is a spatial plan that has regard to other relevant plans, policies and strategies.
- 3.4 I am satisfied that with some exceptions, the AAP accords with national planning policy. Those exceptions relate to the application of PPS3, PPS25 and Circular 05/2005 Planning Obligations (Circ. 05/2005). I deal with these inconsistencies in section 5 of this report under the relevant main matter.
- 3.5 Section 24 (1) of the 2004 Act requires that a DPD must be in general conformity with the Regional Spatial Strategy (RSS) for the region. The current RSS is set out in Regional Planning Guidance Note 9 (RPG9) and Alterations - June 2006). However, a complete review of RPG9 is now being undertaken (the *Draft South-East Plan* (SEP)) and, following the EIP, the Panel Report has been published. The Secretary of State's Proposed Modifications are expected around July 2008, with final approval anticipated towards the end of 2008.
- 3.6 PPS12 informs at paragraph 4.19 that 'considerable weight' can be given to a draft RSS only when the EIP has been completed and Proposed Modifications have been published. However, SEERA has confirmed that the AAP has been assessed for general conformity against both RPG9 and the SEP and they consider that the AAP is in general conformity with both. I am, therefore, satisfied that the statutory requirements have been met in this regard.
- 3.7 **Except for some inconsistency with PPS3, PPS25 and Circ 05/2005, the AAP meets soundness test iv. My recommendations to rectify these inconsistencies and to make the DPD sound are set out in section 5 and Annex A of this report.**

Test v – Regard to the Community Strategy

- 3.8 It is a statutory requirement for the local planning authority to comply with relevant Community Strategies (section 19 (2f&g) of the 2004 Act). Further guidance on this matter is given at paragraph 1.10 of PPS12. I am satisfied that the AAP has taken full account of the Community Strategy contained in the 'Oxfordshire Community Partnership Community Strategy 2004-2007' [CD67] and in 'Oxford's Community Strategy 2004' [CD66], and also that throughout its production, the Oxford Strategic Partnership has been effectively involved. The 4 key aims of the AAP are to create; an attractive network of streets and spaces, a high quality built environment, a strong and balanced community and a vibrant and successful West End. I consider that these clearly have regard to the 5 key themes of the Community Strategy, which refer to; a vibrant and inclusive economy, safer communities, a better living environment, opportunities for life, and active and healthy communities. Consequently, I consider that the AAP will be a key component in the delivery of the Community Strategies for the District and the County.
- 3.9 **The AAP meets soundness test v.**

COHERENCE AND CONSISTENCY TEST OF SOUNDNESS

Test vi – Coherence and Consistency

- 4.1 I have considered the relationship of the AAP with the emerging Core Strategy in the context of test I in section 2 above. In order for the AAP to also meet soundness test vi I have considered if it would be consistent with the Core Strategy, and since it should be the subservient DPD, that its policies and proposals would not drive or pre-empt realistic options for the Core Strategy.
- 4.2 The public consultation period for the Core Strategy Preferred Options document began on 30th March 2007 and in accordance with the LDS it was anticipated that it would be submitted for examination in January 2008. However the Panel Report into the SEP was published in August 2007 [CD65]. It recommends that a Strategic Development Area in the form of an urban extension to the south of Oxford be included in the SEP. This proposal was not included in the draft SEP, and consequently was not addressed in the Core Strategy Preferred Options document [CD61]. The Council is now preparing a supplementary Preferred Options document to address this matter. It intends to publish the consultation document in March/April 2008 and the submission document is expected to be ready in September/October 2008 [CD93].
- 4.3 My interpretation is that the recommended urban extension for Oxford would not affect the designation or emphasis that should be given to the West End in the Core Strategy supplementary Preferred Options document. The Council's self assessment of soundness [CD17] indicates that the policies and proposals of the AAP conform closely to the emerging Core Strategy Objectives. Furthermore, the Preferred Option for the City centre states at page 68 of [CD61] that: "In accordance with the sequential test, the City centre, including the West End, will be the main location for developments attracting a large number of people. In particular, developments will be encouraged that support its role as a primary regional centre, such as major retail, leisure, cultural and office development. The Council and its partners will promote the renaissance of the West End of the city centre through an Area Action Plan. This will deliver a new mixed-use quarter, with a significant amount of housing and new cultural and employment uses."
- 4.4 Whilst only limited weight should be given to a Preferred Options document, from the evidence, including the LDS, it seems unlikely to me that this option, or a similar form of it, will not be carried forward as policies and proposals of the Core Strategy. Taking into account also the regional support for the renaissance of the West End, I

am satisfied that the AAP will be consistent with the Core Strategy and will not pre-empt consideration of all realistic options for it.

- 4.5 However, although Appendix 1 of the AAP sets out the Local Development Framework for Oxford (LDF), I do not consider that it clearly indicates the relationship of the AAP with the Core Strategy. In order to make the AAP sound, I recommend that it is amended in accordance with (PC46), which clarifies that the Core Strategy is the key document of the LDF, with which other DPDs should be consistent.
- 4.6 The policies and proposals of the AAP clearly flow from its vision and are structured around its 4 key aims referred to above in paragraph 3.8. I consider that the policy objectives are generally clear and consistent, as are the policies and proposals themselves. I refer to those which are not in section 5 of this report and make recommendations for changes to them. I do not consider that there are any gaps in the coverage of the AAP. Other adopted planning documents produced by the Council, including the Local Plan and Supplementary Planning Documents (SPDs), on the issues of Affordable Housing, Natural Resource Impact Analysis, Parking Standards and Planning Obligations, have been built upon and developed in the AAP with special regard for the West End.
- 4.7 I am not aware of any cross boundary issues that have not been taken into account or adequately addressed. The County Council is generally supportive of the AAP and no adverse representations have been received from neighbouring authorities.
- 4.8 **Subject to Appendix 1 of the AAP being changed in accordance with PC46 soundness test vi is met.**

CONFORMITY, EFFECTIVENESS, DELIVERY AND FLEXIBILITY

- 5.0 In this section of my report I consider if the policies and proposals of the AAP conform to national planning policy, represent the most appropriate in all the circumstances, are founded on a robust and credible evidence base, and if they are deliverable and reasonably flexible to enable the AAP to deal with changing circumstances. I do so in terms of the following main matters discussed at the hearing sessions of the Examination:
- Housing
 - Mixed-use development
 - The public realm
 - Response to climate change
 - Implementation and delivery

HOUSING

- 5.1.1 *Main Matter – Whether the proposed overall housing provision, including provision for student accommodation and affordable housing, together with the required housing mix is consistent with national, regional and local housing policy, appropriately located, soundly based and deliverable.*

Overall Provision

- 5.1.2 Emerging regional policy in the SEP indicates that provision should be made in Oxford for 7,000 new dwellings by 2026 (policy HS1). The Panel Report recommends that this figure should be increased to 8,000: equivalent to 400 dwellings per annum, which is a level of provision per year lower than that currently provided. The adopted Local and Structure Plans require 433 dwellings per annum. The Core Strategy Preferred Options document suggests a range of options between 350-550+ dwellings per annum. The potential of the West End is referred to in the Preferred Options document, where it is identified as a Strategic Housing

Area. It is not anticipated by the Council that there will be a significant amount of new housing elsewhere in the City centre over the next 15 years.

- 5.1.3 The introduction to Section 4 of the AAP, which contains the housing policies, indicates that the provision of new housing will form a vital part of the West End renaissance, eventually accommodating 600-800 dwellings; around 10% of the required total provision. I consider that taking into account the highly accessible location of the West End and the brownfield nature of the sites that will come forward for development, the anticipated housing provision in the West End is consistent with national housing policy. Since its potential has also been acknowledged in the Preferred Options for the Core Strategy I do not consider that choices and decisions for the submission Core Strategy have been compromised.
- 5.1.4 Appendix 2 of the AAP identifies sites that are likely to become available for development during the AAP plan period (up to 2016). These include some sites allocated in the adopted Local Plan. It identifies that the majority of these may be suitable for some housing development. The West End specific SHLAA [CD98], which was carried out prior to the submission of the AAP, shows that calculated at indicative densities for houses = 60/ha and flats = 100/ha, up to 830 new dwellings could be accommodated on the identified sites. The draft City-wide SHLAA [CD104] indicates that of these, 133 will be deliverable and 289 developable up to 2013 and that the remainder are developable during years 6-10. The housing trajectory contained in the 2006/2007 Annual Monitoring Report (AMR) [CD54] indicates that city-wide completions substantially exceeded the annualised Structure Plan requirement between 2004-2007 inclusive and are anticipated to continue to do so up to 2011. After then, management will bring them in line with the RSS annualised rate. My overall conclusion is that it is appropriate for the West End to provide a significant amount of new housing, but delivery up to the maximum identified in the West End SHLAA is not essential for current or emerging city-wide housing requirements to be met. The anticipated housing delivery in the West End has not been challenged by any parties.

Housing Mix

- 5.1.5 In line with paragraph 20 of PPS3 and paragraph 8.32 of the SEP Panel Report, an objective of the AAP is to create a balanced and mixed community in the West End. The AAP Housing Background Paper [CD23] shows that 81% of dwellings in the West End comprise 1 and 2 bedroom properties, of which 75% are flats. However in order to achieve balanced communities, the Balance of Dwellings Study [CD100] indicates that in the City centre it would be desirable for 30% – 43% of dwellings to have 3 or more bedrooms.
- 5.1.6 To address the current imbalance, Policy WE13 seeks to achieve a mix of different sized new dwellings built across the West End, comprising not more than 65% flats, of which half should have 2 bedrooms and not less 35% of town houses of 3, 4 or 5 bedrooms. This mix applies also to the affordable housing element of a residential development and must be applied as far as appropriate on all sites. The Policy further requires that on specified sites at least 50% townhouses are required.
- 5.1.7 In this context I consider that the housing mix sought by the Policy is appropriate. The three sites specified to provide at least 50% town houses, if they come forward for residential development, are amongst the largest listed in Appendix 2, and as far as I am aware they are not constrained. Therefore, it is appropriate that they should deliver a higher proportion of houses in order to redress the housing mix balance.
- 5.1.8 However, I am concerned that the reference to 'townhouses' is too prescriptive because it could imply a required type of design of dwelling, which would be unjustified and, therefore, inappropriate. To rectify this and to make the AAP sound in terms of test vii, all references to 'townhouses' should be substituted with 'houses', in accordance with (IC1).

- 5.1.9 I also consider that the Policy is unnecessarily inflexible by requiring the mix to be applied to each individual site, and could hamper delivery. It is also inconsistent, because the Policy says that; "Across the West End, the overall balance...", and in Appendix 2 it is stressed that the West End should be considered as a whole rather than as a collection of individual sites. Furthermore, multiple Appendix 2 sites are in the same land ownership. To make the Policy sound in terms of tests vi and ix an additional sentence should be added, as set out in (IC2), to clarify that where multiple development sites are in the same ownership the Council will negotiate to secure the required dwelling mix across that group of sites.

Student Housing

- 5.1.10 In addition to general housing provision in the West End, Policy WE18 permits new purpose built, non-speculative student accommodation on two specified sites. It informs that permission will also be granted for student accommodation on other sites provided that the total number does not exceed 350 units, or up to half of the number of new residential units built in the West End since 2007. The purpose of this Policy acknowledges that purpose built student accommodation would allow more students to live in halls of residence and thus free up some private rented housing for non-students. But in order to achieve a balanced community it is thought by the Council to be desirable to limit the amount of new student accommodation built.
- 5.1.11 A background paper on student accommodation [CD35] is relied upon to explain how the figure was derived from a survey of the University of Oxford colleges; Oxford Brookes University being focussed outside the West End area. However, I am not convinced that the figure referred to in the Policy is supported by the evidence since the requirements of the responding colleges amount to less than 350 units. With reference to the second paragraph of the Policy, the figure of 350 units seems to have been arbitrarily derived as being about half the amount of non-student accommodation anticipated to be built in the West End. Consequently, I conclude that Policy WE18 fails to meet soundness test vii, in that it is not based upon robust evidence.
- 5.1.12 Policy WE18 is an evolution of the established adopted Local Plan Policy HS.14. However that policy is criteria based in terms of occupancy and management controls. There is no reference to an upper limit for provision. In my opinion, similar criteria are all that are necessary to ensure that any new student accommodation built in the area will only be occupied by students and will not be rented out to non-students as a sub-standard form of permanent accommodation. Subject to these criteria being imposed, it is my opinion that any imbalance in the community would not be exacerbated by leaving the number of student units built to market forces.
- 5.1.13 To make Policy WE18 sound it should be reworded by omitting reference to a numerical ceiling and by including a requirement to secure occupancy restrictions to full-time students of the Universities of Oxford or Oxford Brookes, in accordance with (IC6). To reflect my concern regarding the apparent lack of robustness of the evidence base for the intended cap, but to nevertheless ensure that speculative student accommodation development is not purely market led, the third paragraph of Section 4.5 of the AAP should be amended as indicated at (IC34).

Affordable Housing

- 5.1.14 Oxford's Housing Requirement Study (2004) [CD51] found a 'huge' need for affordable housing, comparable with that found in Inner London boroughs. Also, that there is limited scope for the need to be met by initiatives other than social rented housing; with shared ownership accommodation being largely irrelevant with regards to affordability considerations, other than for one bedroom dwellings.
- 5.1.15 The Council's response to this is rigorous. Policy HS.4 of the adopted Local Plan requires provision for affordable housing on sites having a capacity for 10 or more dwellings, or on a residential site of 0.25 ha or more in area. On qualifying sites

Policy HS.5 seeks the provision of generally a minimum of 50% of the proposed dwellings as affordable. The adopted SPD on Affordable Housing (2006) [CD58] informs that the tenure mix that best meets local needs is 80% social rented and 20% shared ownership; the latter being a form of intermediate housing as defined in Annex B of PPS3.

- 5.1.16 AAP Policy WE16 evolves the adopted policies in respect of the West End by removing the thresholds so that all residential development sites are required to provide affordable housing at the 'at least' 50% level, but a cascading level of provision is also permitted by the Policy to take account of viability issues. The West End is identified as a Strategic Housing Site in the Regional Housing Strategy (South East Regional Housing Board), which indicates that it is a key area in the region for the delivery of affordable housing and thus it is expected by the Council that Housing Corporation investment (Social Housing Grant) will be available. From the evidence I have no reason to doubt this, but it is not certain. This is why the cascade approach, which I consider to be appropriate, is contained in the Policy, to take account of the 'what if' scenario, in accordance with soundness tests vii and ix.
- 5.1.17 The viability of the Local Plan policies were assessed in the Housing Viability Study (2004) [CD51], and tested at the Local Plan Inquiry. As evidence for the Planning Obligations SPD [CD59] the Valuation Office Agency produced a Planning Obligations Viability Study (2007) [CD94] that took account of the 50% affordable housing requirement, as well as other planning obligations sought. The AMRs up to 2006 show an under-performance against this target, but it was explained at the hearing sessions that this can be accounted for by the implementation of a number of permissions granted before the policies came into effect. The 2006-2007 AMR [CD54] indicates a 40.4% level of affordable housing provision. Since it is likely that the completions during this period would also have included 'old' permissions, the indications are that the policies are working well and that the thresholds are not unreasonably onerous to the extent that delivery is adversely affected.
- 5.1.18 The Valuation Office Agency was also commissioned to assess the combined impact of the affordable housing and streamlined contributions sought by policies of the AAP [CD43]. It is the Council's opinion that this latter viability study indicates that the combination of the affordable housing and the streamlined contributions requirements would still leave sites viable. However, for reasons that I give in section 5.5 of this report, I do not find the evidence convincing on this matter and I have made recommendations for changes to be made regarding the level of streamlined contributions sought.
- 5.1.19 Paragraph 29 of PPS3 informs that local planning authorities can set lower minimum thresholds than the national indicative site size threshold of 15 dwellings, where viable and practicable. Monitoring of the performance of the adopted Local Plan policies seem to indicate that existing thresholds are viable and practicable, but they have only recently been introduced. In my opinion there is presently insufficient evidence to conclude that the removal of both dwelling numbers and site size thresholds, as intended by Policy WE16, is viable and practicable.
- 5.1.20 Taking account of the highly sustainable city centre location of the West End I agree that it is appropriate to remove the site area threshold, because with the expected residential densities of 60-100 dwellings per ha, many opportunities for seeking affordable housing would otherwise be lost. However, I am not convinced that, in the absence of robust evidence to indicate otherwise, it is appropriate to also remove the dwelling numbers threshold. I conclude that in order to be consistent with PPS3 on this matter and to meet soundness tests iv and vii, the established threshold of 10 dwellings should be retained. The Policy should, therefore, be changed in accordance with (IC4). For clarity and accuracy section 4.2 of the AAP should also be changed to reflect the precise words of the Local Plan Policy HS.5, as given in (IC3).

- 5.1.21 In addition, following from innovative Local Plan Policy HS.7, Policy WE17 of the AAP seeks affordable homes from commercial development where additional demand is created by the development. The application of the established policy is set out in the Affordable Housing SPD [CD58]. Policy WE17 adds to this by including reference to a staff equivalent between the range of 1-5%. However, it is not at all clear from the evidence how this range was derived or how it would be implemented. This is a matter that could possibly be addressed in a future review of the SPD. But in order to make Policy WE17 sound in terms of test vii its last sentence should be deleted in accordance with (IC5).
- 5.1.22 **I conclude that the policies and proposals of the AAP for housing provision are appropriate to deliver the balanced community sought for the West End, they are consistent with national and development plan policy, soundly based, deliverable and flexible, as required by soundness tests iv, vii, viii and ix, provided that the following changes are made: IC1, IC2, IC3, IC4, IC5, IC6 and IC34.**

MIXED USE DEVELOPMENT

- 5.2.1 *Main Matter – Whether the policies and proposals of the AAP for creating a vibrant West End are soundly based, most appropriate, internally consistent and flexible.*

Mixed uses

- 5.2.2 Key to the AAP's vision for the renaissance of the West End is that the area must not be dominated by any single land use. As well as for housing, the policies and proposals of the AAP seek to provide additional space for business growth, to enhance shopping opportunities and to provide new leisure, community and tourist facilities. Fundamental to achieving this, Policy WE20: Mixed uses, informs that on sites of 0.2 ha or greater, planning permission will only be granted for developments that incorporate more than one use. Associated with this Policy, Appendix 2 of the AAP identifies on a map the 24 main sites that are likely to come forward, and in a matrix it identifies appropriate uses and their proportions for each site.
- 5.2.3 The Council has identified some mistakes in the submitted Appendix 2, which it seeks to rectify by changes. (PC2) adds site 24 which refers to St Aldate's Police Station. I am satisfied that this site has been consulted upon and has been the subject of the SA, but was omitted from the AAP in error. (PC3) refers to the indicative proportions of appropriate uses at sites 10 and 12. For clarity and coherence I recommend that these changes are made to make the AAP sound.
- 5.2.4 Whilst I consider that Policy WE20 is entirely appropriate to achieve the vision for the West End and is sound in respect of all of the tests, I am concerned that Appendix 2 allocates uses and their proportions, without sufficient evidence to support those decisions, and that it introduces a high degree of inflexibility. Disagreement over the mix and proportions of uses shown in Appendix 2 could delay some schemes coming forward and could also have viability implications for others. Furthermore, as I discuss in section 5.4 of this report it is not clear that proper account has been taken of flood risk. Thus Appendix 2 makes the AAP unsound.
- 5.2.5 However, in its topic paper [CD97] and in the hearing sessions the Council clarified that it was not the intention that Appendix 2 should be used as an allocations matrix and it has suggested changes, (PC33) and (PC34), which would clarify that the Appendix 2 uses are indicative only, to serve as a guide. Furthermore, that at the planning application or master planning stage further site investigations will be required to confirm that the indicative uses and the proportions identified are indeed appropriate. For consistency, the reference to categories of proportions of uses should also be changed to indicative uses as detailed in (IC35).

5.2.6 Changes PC2, PC3, PC33, PC34 and IC36, are necessary to make Appendix 2 of the AAP sound having regard to tests iv, vii and ix.

Offices

- 5.2.7 The Oxford Employment Land Study (2006) [CD50] identifies a demand for offices in the City Centre in the region of 15,000 – 20,000 sq m up to 2021, where its office accommodation is mainly older, second hand space in only fair condition. The study also highlights the importance of the Research and Development Industries in Oxford. Section 5.2 and Policy WE21 of the AAP seek to address these matters. However, the text is not clearly written and as a consequence, Policy WE21, which limits the amount of commercial office development to 15,000 sq m, does not appear to be justified by the evidence. Nor is clear differentiation made between the commercial office space referred to in Policy WE21 and the public sector offices referred to in Policy WE22. Thus this part of the AAP fails to meet soundness tests vi and vii and is unsound.
- 5.2.8 To make the AAP sound, the first two paragraphs of its Section 5.2 should be re-written in accordance with (PC53), which clarifies the relationship of Policy WE21 with the Employment Land Study. The Policy should be moved to immediately follow this amended text and its title should be revised to include the word 'Commercial'. The last paragraph of Section 5.2 should then be moved to follow Policy WE21 as new Section 5.3 'Research & Development and Start-up units'. Then text in the remainder of Section 5 of the APP should be re-numbered accordingly as referred to in (IC36).
- 5.2.9 There was considerable discussion at the hearing sessions as to whether or not it is necessary to impose an upper ceiling for office development in Policy WE21. On balance I consider that the limit will facilitate monitoring and management of office supply in the long term post-2016, after the end of the AAP period and that subject to the changes that I refer to above, its inclusion does not make the plan unsound.

Retail

- 5.2.10 In accordance with PPS6, the publication of which coincided with the adoption of the Local Plan, the AAP Proposals Map defines the extent of the Primary Shopping Area within the city centre. It includes an adjoining area to the west of the Westgate Shopping Centre that is occupied by the County Hall. The County Council intends to relocate to new joint offices with the District Council in the Oxpens area. In my opinion, the County Hall site would be a well integrated, logical extension to the Primary Shopping Area that would enable the enhancement of the shopping opportunities, which is a key objective of the AAP and which is supported by the Retail Needs Study (2007) [CD42]. Planned expansion of the Primary Shopping Area would accord with the retail strategies of the adopted Structure and Local Plans, both of which place Oxford city centre at the top of the retail hierarchy. It would also be consistent with the strategic objectives of the draft SEP, which identifies Oxford as a strategic town centre and also with the sequential approach of PPS6.
- 5.2.11 However, the wording of Policy WE23: Retail suggests that the County Hall site is not included within the Primary Shopping Area, thus causing inconsistency between the Policy and the Proposals Map. In order for test vi to be met and for the Policy to be sound it should be changed as set out in (PC35), which clarifies that the County Hall site is within the Primary Shopping Area.
- 5.2.12 Planning permission has been granted for the expansion of the city-centre Westgate Shopping Centre by around 34,000 sq m. Section 5.4 of the AAP, which refers to retail provision, identifies that the anticipated redevelopment of the St Aldate's/Queen Street site will create the opportunity for about 3,000 sq m of additional retail floorspace. However, the Retail Needs Study assumes that the latter scheme will provide 5,000 sq m additional comparison floor space in the City-centre. The lower figure of the AAP would be at odds with both the modelling of the

Retail Study and the planning application that is currently being negotiated with the Council. No evidence has been brought to my attention that justifies the lower figure, which could imply a ceiling on additional retail floorspace provision at this site. Given the pre-eminence of the City centre in the regional retail hierarchy I do not consider that an upper limit is justified. Furthermore, the requirement of Policy WE23 that upper floors of the St Aldate's/Queen Street scheme be developed with mixed-uses would ensure that the site is not dominated by retail use. I conclude that the AAP fails to meet soundness test vii in this regard.

- 5.2.13 To make the AAP sound it should be changed in accordance with (IC26), which removes reference to an upper limit ceiling of 'about 3,000sq m'.

Culture and Leisure

- 5.2.14 The AAP includes several policies that address the provision of hotel, conference, cultural and leisure facilities. I consider that they are generally sound and I have no further comment to make on them, except for Policy WE28, which refers to a leisure opportunity in the Oxpens area. However, the preceding text refers to a range of leisure opportunities. To rectify this inconsistency, and to make the Policy sound in terms of test vi, it should be reworded as set out in (IC28), which refers to opportunities for leisure in the Oxpens area and corrects a typographical error in the Policy.
- 5.2.15 **The policies and proposals contained in Section 5 of the AAP, which aim to create a vibrant West End should be changed in accordance with PC2, PC3, PC33, PC34, PC35 and IC26, IC28, IC34, IC36 in order to make the AAP sound having regards to tests vi, vii and ix.**

THE PUBLIC REALM

- 5.3.1 Main Matter - *Whether the policies and proposals of the AAP which seek to promote high quality design in development and to create an attractive network of streets and spaces are soundly based, most appropriate, internally consistent and flexible.*

Promoting High Quality Design

- 5.3.2 Improving the public realm is a key objective of the AAP and it contains proactive policies and proposals to achieve this. The intention is to give priority to pedestrians and cyclists where possible, and to transform the ambiance of key streets in the West End. Policy WE1 is the overarching design policy for the intended public realm improvement works. It requires that the streets and public spaces should be designed in accordance with the framework set out in the Design Code, which is contained in Appendix 3 of the AAP, and with the strategy set out in a document entitled 'Improving the Street Environment', which builds on the existing 'City Centre Public Realm Strategy' [CD96]. Policy WE11 informs that planning permission will only be granted for new developments that follow the framework set out in the Design Code.
- 5.3.3 The West End Design Code is a comprehensive document based on a combination of general urban design principles and the place-specific qualities of Oxford City centre and the West End. Its priority is to set the relationships between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and urban blocks. It has sought to identify the least number of most significant and long-lasting elements of the public realm of the West End in order to provide a flexible framework for the generation of a new, successful and highly locally distinctive public realm.
- 5.3.4 The concept of and the principles for the Design Code were tested through the Issues and Options and Preferred Options stages. They were also tested through the Space Syntax work, which forms part of the evidence base for the AAP, [CD47 and CD48], and through a testing day with development control officers, architects and a CABE enabler. I consider that this innovative Design Code, which has been

commissioned specifically for the West End, will ensure that local features that make the area distinctive are considered and built upon in its renaissance.

- 5.3.5 Its approach is consistent with national guidance on design considerations, which aims to produce distinctive and safe environments. I am also satisfied that it is based on robust evidence, that it is capable of being implemented in respect of all scales of development and that it is sufficiently flexible in order not to stifle innovative design. I conclude that this element of the AAP meets all of the soundness tests. However, for greater clarity, the Council has suggested several changes that mainly correct minor typographical errors, and to provide greater clarity to the 'Regulating Plan', all of which I endorse. They are set out in full in Annex B of this report.
- 5.3.6 To supplement the Design Code it is intended that another document, 'Improving the Street Environment' will ensure a consistent approach to the quality and design of public realm works by setting out a palette of materials and principles that should be used. However, the production of this document has not yet been completed. Therefore it has not been consulted upon. It has not been the subject of a SA, nor can it be concluded that it is the most appropriate in all of the circumstances. Thus reference to it in Policy WE1 makes the AAP unsound. This should be rectified by deleting such reference from the Policy, as set out in (PC36). However, references to the document in the preceding text and bullet point should be retained in order to highlight future intentions regarding a review of the City Centre Public Realm Strategy [CD96].
- 5.3.7 Policy WE10 requires new development to respect the historic environment of the West End and it lists factors that should be taken into account in applicants' Design and Access Statements (DAS), including its heritage, street patterns, views and important buildings. The text preceding the Policy also makes reference to the historic skyline of Oxford. In my opinion, it is a significant omission to not also refer to this important design consideration in Policy WE10. In order to meet test vii and to make the AAP sound, the Policy should be made more locally distinctive by re-wording its first sentence to state that; 'New development must respect the character and historic skyline of Oxford, and the setting of listed buildings...', as set out in (IC27).
- 5.3.8 Additional design requirements are set out in Policy WE12, which demands that new buildings in the West End are of high quality architecture and are designed to be flexible and long lasting. It also requires the submission of a DAS, in accordance with a template that is contained in Appendix 7 of the AAP. I consider that these design aspirations accord with national policy and guidance and that they are appropriate in order to promote the renaissance of the West End. However, the requirement for a DAS for householder applications outside a conservation area is unnecessarily onerous. To make the Policy and Appendix 7 sound having regards to test vii an exception for such development should be permitted as set out in (PC45).
- 5.3.9 **I conclude that the policies and proposals of the AAP which seek to promote high quality design in development are soundly based, most appropriate and flexible provided that they are amended in accordance with changes references PC36, IC27 and PC45.**

Attractive streets and spaces

- 5.3.10 Based on evidence contained in an assessment of the impact of policies and proposals of the AAP on the Strategic Road Network (SRN) [CD14], the assumption is made that there will be no impact on the SRN. However, a subsequent refinement of that assessment made after the submission of the AAP [CD108] indicates that traffic generated by the AAP proposals is likely to result in an increase in traffic during the AM and PM peaks in excess of 5% on the SRN junctions at Botley, Hinksey Hill and Pear Tree.

- 5.3.11 Evidence submitted for the examination of the SEP indicates that growth in the region, up to 2026, will be double the capacity of the A34, which is a key trunk road in the SRN. The Pear Tree junction is currently under stress, so the increased demand generated by the AAP proposals will have a significant impact on the SRN. However, balanced against this are the considerations that sequentially, development in the West End is highly sustainable, also that the West End area is specifically included in the Access to Oxford package, which aims to enable economic growth in the sub-region. In addition, its renaissance is promoted in the SEP. I conclude that the city and regional benefits of the regeneration of the area that would result from the policies and proposals of the AAP outweigh their adverse impact on the SRN. Thus, that the AAP is sound in this regard.
- 5.3.12 Section 2 of the AAP describes the current shortcomings of the public realm of the West End and sets out policies and proposals to address them. The works include the creation of new pedestrian and cycle links, the pedestrianisation of Queen Street, which is one of the main retail streets and consequent to this, the creation of a new bus priority route, key junction improvements, public parking provision, new and improved urban public spaces, enhancing Oxpens Field as a green space and improving the public amenity of the waterways running through the West End. Policies WE2-WE9 make reference to all of these proposals and they are summarised on the 'Streets and spaces map' at the end of the section.
- 5.3.13 Generally, I consider that these policies and proposals are the most appropriate, that they are based on robust evidence and that they are deliverable. Local concern has been raised concerning the significant volume of traffic that uses Oxpens Road, Park End Street and Hythe Bridge Street, and the implications for traffic congestion that could occur if proposals to make these highways more pedestrian focussed were implemented. From the evidence I am satisfied that Oxpens Road is not being used to its full design capacity for 20,000 vehicle trips per day. Furthermore, measures including permitting very limited car parking for new residential development and only disabled and operational parking for non-residential development, will significantly limit the amount of additional traffic generated by the new development within the West End.
- 5.3.14 In these circumstances, I conclude that it would be appropriate to reduce the amount of surface dedicated to traffic movement in Hythe Bridge Street, as proposed in the AAP. However, in order to make the DPD sound, the last sentence of its section 2.1 should be re-worded to clarify that the reduction of Hythe Bridge Street to one lane in each direction is possible only in conjunction with other public realm works, including the remodelling of Frideswide Square, which is a key project for the regeneration of the West End. This necessary change is detailed in (IC20).
- 5.3.15 Another proposal that is fundamental to the West End renaissance is the re-routing of buses and pedestrianisation of Queen Street, to remove conflict between buses and pedestrians, and to improve the quality of the shopping experience in this key retail area. The Highways Authority will investigate a range of solutions to allow the pedestrianisation of Queen Street, in combination with other improvements to provide better bus penetration into the West End, and to remove scheduled coaches from Gloucester Green as part of wider transport considerations beyond the scope of the AAP. I consider that the principle of this proposal is entirely appropriate and is based on robust evidence, [CD31 and CD33]. Also, that it is realistic and capable of being implemented.
- 5.3.16 Policy WE3: Redesign of streets and junctions in the West End, prevents development that would prejudice the delivery of these projects, which are described in section 2.3 of the AAP. However, in order to make the Policy sound, greater precision and clarity is required. It should be amended to clarify that it refers to the highway works described in section 2.3 of the AAP. In addition, it is necessary to more clearly link the 'Streets and spaces map' to all of the foregoing policies in section 2 of the AAP, by preceding the title of the map with the word

'Key' and by adding another category of 'other key streets and spaces'. These necessary changes are detailed in (PC41) and (PC50).

- 5.3.17 The AAP seeks to improve the ambience of the West End and to enable land to be used more efficiently by managing car parking in a way that discourages unnecessary car trips into the West End. But in recognition also of the value of public car parking facilities to the economic viability of the City centre, the current level of provision will be maintained, although high pricing would discourage long-stay parking. To clarify these intentions, to avoid a possible perception of conflicting messages concerning the car parking objectives and to thereby make the AAP coherent and sound, the third sentence of the third paragraph of text beneath Policy WE3 should be preceded by the word, 'However', as indicated by (PC32). In addition, to add flexibility to Policy WE4: Public parking, the reference to on-street parking on Oxpens Road should be widened to the Oxpens area, in accordance with (IC21).
- 5.3.18 Oxford is the sixth most visited city in the UK by international visitors. It is estimated that 32% of those visitors travel by coach. Currently coaches park at the Oxpens site. However, the removal of coaches and the development of that site are regarded as being a key catalyst to the renaissance of the West End. Thus Policy WE25 appropriately promotes the redevelopment of the coach park at the Oxpens site and it indicates that alternative coach parking will be provided at a Park and Ride site. The preceding text identifies possible locations for Park and Ride Sites.
- 5.3.19 Concerns have been raised that the collective proposed uses of Oxpens Field are excessive and that its value as a 'green lung' could be compromised. From the evidence and discussion at the hearing sessions I am satisfied that the area shown on the AAP Proposals Map would reflect that defined as open space on the Proposals Map of the adopted Local Plan. Disputes over its precise extent and boundaries were discussed at that Inquiry. Since details of ownership have not changed since then I saw no reason to re-open that debate as part of this Examination.
- 5.3.20 With regards to uses proposed, I acknowledge that planned new infrastructure, such as the provision of a new residential road to serve land adjacent to the site would impinge upon this valued open space, but I am satisfied that this loss would be adequately compensated for by improvements to its recreational quality intended by Policy WE8. Furthermore, Policy WE5 promotes the delivery of a series of new civic open spaces in the area. However, to clarify that it is proposed that Oxpens Field will be managed as an area of high quality recreational open space reference to Policy WE8 could be added to the AAP Proposals Map, as indicated in (PC44 in Annex B).
- 5.3.21 **I conclude that the policies and proposals of the AAP, which aim to create an attractive network of streets and spaces are soundly based, most appropriate, coherent and flexible, provided that the AAP is amended in accordance with changes IC20, IC21, PC32, PC41 and PC50. These changes are required to make the AAP sound with particular reference to tests vi, vii and ix.**

RESPONSE TO CLIMATE CHANGE

- 5.4.1 *Main Matter – Whether the policies and proposals of the AAP take appropriate account of climate change having regards to flood risk and resource efficiency.*

Flood risk

- 5.4.2 The River Thames and other local waterways flow through the West End area, parts of which were flooded in July 2007 [CD86], thus consideration of flood risk and the implications of climate change are particularly pertinent to development proposals in the area. By means of a map and a table, Appendix 2 identifies the main development sites and their appropriate uses. Appendix 5 is an extract from the

West End Strategic Flood Risk Assessment (WESFRA). Cross reference between these two Appendices indicates that several of the sites that are indicated to be appropriate for more vulnerable uses, as defined in Table D.2 of PPS25, fall within Flood Zone 3a and some within Flood Zone 3b, as defined in Table D.1 of PPS25.

- 5.4.3 The WESFRA [CD49] was completed in 2007, prior to the submission of the AAP, and was used to inform its policies and proposals. Thus the Council was aware that some of the sites shown to be appropriate for housing in Appendix 2 fall within a high flood risk Zone 3a area. It nevertheless took the decision that housing is appropriate at those sites, without transparently applying the sequential and exception tests set out in Annex D of PPS25.
- 5.4.4 The AAP is unsound in this regard, because it is not consistent with national policy as required by soundness test iv b. Nor does it demonstrate that its policies and proposals are the most appropriate in all the circumstances, as required by soundness test vii. Furthermore, the Environment Agency (EA) questions the robustness of the WESFRA. As a consequence of concerns raised by and on ongoing dialogue with the EA, the Council undertook a city-wide SFRA post-submission of the AAP and it retrospectively applied the PPS25 tests to the Appendix 2 sites [CD103]. The EA does not question the robustness of the city-wide SFRA, nor have I any reason to do so.
- 5.4.5 This latter assessment indicates that taking into account analysis of the SHLAA [CD104] and the sequential test of PPS6, the West End area passes the PPS25 sequential and exceptions tests. Furthermore, at the hearing sessions the Council clarified to my satisfaction that only small parts of individual sites are located within high flood risk zones and that it would be possible to construct the number of dwellings indicated in the SHLAA for the individual sites on those parts of the sites that are within an appropriate flood risk zone.
- 5.4.6 In section 5.2 of my report I have recommended that Appendix 2 should be changed to clarify that the uses identified in the matrix are 'indicative' rather than 'appropriate' uses. In addition to adding general flexibility to the AAP this change will avoid a misconception that the identified uses have been assessed for their appropriateness in all regards and will highlight that at the planning application or master planning stage further site investigations will be required to confirm that the indicative uses identified are appropriate. Thus a further reason why the changes (PC33), (PP34) and (IC35) are necessary to make the AAP sound is to permit the necessary flexibility to direct more vulnerable uses away from high flood risk zones and to thereby avoid conflict with PPS25, since sites/uses would not be allocated by virtue of the Appendix 2 matrix.
- 5.4.7 Policy WE14 of the AAP requires development on sites in any area of flood risk to include a Flood Risk Assessment (FRA) and to implement necessary flood risk measures. All other sites of over 1 ha must carry out a Flood Risk Assessment. Work is ongoing regarding investigation of the feasibility of moving the current flood storage area on the Oxpens site.
- 5.4.8 **Having taken all of these factors into account I conclude that as a city-wide SFRA has now been carried out and retrospective application of the sequential and exceptions tests of PPS25 demonstrate that the West End area is a necessary and sustainable location for development, subject to the AAP being changed in accordance with PC33, PC34 and IC35 to clarify that Appendix 2 identifies only 'indicative' uses, it meets soundness tests iv, vii and ix having regards to flood risk considerations.**

Resource efficiency

- 5.4.9 In line with the national sustainable energy agenda set out in several planning policy statements, including in particular, the Supplement to PPS1, the AAP proposes a community energy scheme in the West End, as an exemplar scheme. Policy WE13 is negatively worded to require all new development to comply with

the adopted Natural Resource Impact Analysis SPD [CD57]. It also requires developments in the West End to connect to the scheme where practicable. It further informs that those developments which connect to the scheme will be able to count this contribution towards their on-site renewable energy requirements, as set out in the SPD.

- 5.4.10 Two phases of a sustainable energy study were completed before the submission of the AAP [CD39] to assess the type and availability of schemes that would be appropriate in the West End, and to assess the demand for energy there. They conclude that the predicted scale and diversity of energy consumption associated with new developments planned for the West End is suitable to support and provide an economically and environmentally sound case for an area-wide community energy scheme. The study also anticipates that the likely level of capital cost and complexity of the energy system's design and operation would be likely to require an Energy Service Company (ESCO). The study further explains how a private-wire electrical distribution system could help to ensure sufficient operating revenue from the community energy scheme to cover its operating costs. Thus although there would be no requirement for developer contributions towards the cost of setting up the scheme, it is essential to its operational viability that enough developments sign up to it.
- 5.4.11 The Westgate shopping development that has planning permission, but is the subject of a recent CPO appeal, has committed to provide the infrastructure to connect up to a future community energy scheme, therefore providing some certainty that the scheme will go ahead. However, there is a possibility that it may not, or that there could be timing issues with some development schemes coming forward in advance of the community energy scheme being operational.
- 5.4.12 Given this element of uncertainty I consider that it is necessary in the interests of flexibility that Policy WE13 should be changed in accordance with (PC51) which would permit retrospective connection to a community energy scheme to be counted towards the development's on-site renewable energy requirement.
- 5.4.13 **Subject to the AAP being amended in accordance with change PC51, I conclude that Policy WE13: Resource efficiency would meet the soundness tests and that the DPD would be sound in this regard.**

IMPLEMENTATION, MONITORING AND DELIVERY

- 5.5.1 *Main Matter - Whether the mechanisms for the delivery and implementation of the objectives, policies and proposals of the AAP, which include provision for streamlined contributions are clear, robust, realistic and consistent with national and local planning policy.*

Implementation and Monitoring

- 5.5.2 Soundness test viii requires that there are clear mechanisms for implementation and monitoring. This is especially important in the case of an AAP since delivery is one of its prime purposes. In many ways I consider that this AAP is very forward thinking in terms of its mechanisms for delivery and implementation, but they are not always sufficiently clearly articulated in the submission document.
- 5.5.3 The roles of stakeholders in the implementation of the AAP are set out in its section 6.5. In my opinion, the West End Partnership, which I have previously referred to in paragraph 3.3 above will be influential in ensuring that the AAP is delivered, because the main stakeholders are included in its membership and are in broad agreement with the policies and proposals of the Plan. Furthermore, the City and County Councils are substantial land owners in the West End area. As such, they have additional roles to play in the renaissance of the area, in addition to their statutory duties. To make the AAP sound this should be clarified as detailed in (PC28).

- 5.5.4 However, it is not clear in the case of all of the policies how, when and by whom the proposals will be delivered or monitored. This information is contained throughout the text of the AAP; in bullet points, and to a limited extent, in Appendix 9, but not in a coherent way. In response to my concerns on this matter the Council has drawn all of this information together in two tables. The first shows for each policy, which will be the lead agency, the timescale for delivery and the funding source. The second table shows the indicators and targets for each of the policy areas. Together they are contained in (PC27). I conclude that this information greatly clarifies the implementation mechanisms, and will enable the progress of the AAP to be properly monitored.
- 5.5.5 **In order for test viii to be met and to make the DPD sound, the existing Appendix 9 of the AAP should be replaced by an amended Appendix 9, which is set out in full as PC27.**

Delivery Mechanisms

- 5.5.6 The renaissance of the West End will entail substantial investment in some significant infrastructure projects that fall into three broad categories;
- Strategic infrastructure
 - Service infrastructure
 - Transformational infrastructure
- Some of these works will be paid for from funds from various sources, but in addition to the delivery of affordable housing, which I consider in section 5.1 of this report, several policies of the AAP require that developer contributions are also made in respect of all types of development taking place in the West End, except for the two planned museums. These contributions are based on the concepts of streamlined and pooled contributions and build upon funding mechanisms set out in the Planning Obligations SPD, adopted in 2007 [CD59] and Policy CP.2 of the adopted Local Plan.
- 5.5.7 Section 6.4 of the AAP sets out sources of funding in addition to developer contributions in very general terms, which gives no real certainty that they would have a real impact on funding the West End projects. As discussed at the hearing sessions, more precise information is now available on this matter, as contained in (PC56). In order to give certainty to the delivery of the AAP policies and proposals and to make the DPD sound in this regard, section 6.4 of the AAP should be substituted by the wording of (PC56).
- 5.5.8 Turning to the developer contributions, section 6.2 of the AAP explains that to simplify and speed up the way these are assessed and collected, the Council will apply a global sum assessed on the size of the development to pay for the various infrastructure requirements of the West End renaissance. The section indicates that the AAP, "has established a greater need for certain contributions in the West End than in other parts of Oxford, for example towards the public realm and 'strategic' transport improvements". Policy WE29, incorrectly referred to as Policy WE30 and corrected in (PC1 Annex 2) sets out how the streamlined contributions would be obtained and it cross refers to Appendix 8, which tabulates the global sum required for various/sizes types of development. Policy WE30, incorrectly referred to as Policy WE29 and corrected in (PC1 Annex 2) deals with pooled contributions and forward funding. Policy 31, incorrectly referred to as Policy WE30 and corrected in (PC1 Annex 2) refers to the Council's use of compulsory purchase powers. From hereon I shall refer to these Policies by their corrected policy numbers.
- 5.5.9 In principle, I consider that the concepts of Policies WE29 and WE30 are appropriate, realistic and suitably proactive to enable the delivery of policies and proposals of the AAP. Both mechanisms are referred to in Annex B of Circular 05/2005 (Circ 05/2005). However, there are a number of flaws with the precise details of their application in the AAP. Firstly, section 6.2 of the AAP implies that the

developer contributions are required to address existing infrastructure deficits as well as to make provision for infrastructure requirements resulting from the proposed development. Whilst I consider that it is reasonable to expect the quality of public realm projects to be very high, to reflect the city centre location and the aim of renaissance, and therefore to be more costly than would be expected in other parts of the city, it seems to me that section 6.2 and Policy WE29/Appendix 8 go beyond what is permitted by Circ 05/2005 and do not accord with its tests (iii) and (iv), given at Annex B6, by seeking to resolve existing deficits.

- 5.5.10 Furthermore, contrary to Annex B, the types of infrastructure works for which developer contributions are required is not made explicit, nor does the AAP or the evidence base transparently set out the costings of those works or their apportionment to individual developments.
- 5.5.11 In addition, I am concerned that the cumulative requirements of other policies of the AAP, for both housing and commercial development to contribute towards the provision of affordable housing, together with the payment of a substantial streamlined contribution before the development commences, as required by Policy WE29, may be too onerous and may discourage some developments from coming forward because of viability implications. An insufficient number of scenarios have been tested for viability. [CD43] indicates that only 5 sites were viability tested by the Valuation Office Agency. This exercise indicates that taking account both the affordable housing and global sum requirements, 2 sites would be viable, 1 marginal and the other 2, non-viable, but it concludes that even in the non-viable cases it is not the amount of streamlined contributions that is making the development unviable, rather the high existing uses values. Nevertheless, the evidence persuades me that these combined requirements could seriously prejudice developments coming forward and could thus jeopardise delivery of the AAP.
- 5.5.12 In response to my concerns the Council has suggested several changes, which I consider to be necessary to make the AAP sound. With reference to section 6.2 of the AAP the Council suggests wording to clarify the basis of the global sum calculation, which is set out in (PC54), which I have amended. In my opinion, this helps to fairly and reasonably apportion the likely impact on and the need for infrastructure provision. However, (IC9), which would preface the sentence starting "The global sum is assessed" with the words "Having regard to the need created" the global sum is assessed..., is also necessary to clarify that the collection of streamlined contributions will accord with Circ 05/2005. In addition, the third sentence of the second paragraph of section 6.2, which refers to, "a greater need for certain types of contributions in the West End", should be deleted in accordance with (IC10) to avoid perceived inconsistency with Circ 05/2005.
- 5.5.13 The middle paragraph of Policy WE29 indicates that in later years the global sum will be set out in a Supplementary Planning Document, but until that time the schedule set out in Appendix 8 will be applied as the appropriate starting point for the global sum. In response to my concerns regarding the transparency of the derivation of the schedule in Appendix 8 and for its appropriateness having regard to Circ 05/2005 and development viability, it was discussed at the hearing sessions that Tables 5 and 6 of the Streamlined Contributions background paper [CD34], which sets out the Council's estimated costings for the main public realm and transport improvement costs could be imported into Appendix 8. But that then left remaining the question as to how these were translated into global sums for streamlined contributions.
- 5.5.14 In further response, the Council has submitted a replacement background paper on the method and calculation of the streamlined contributions, which is contained as (PC59) in [CD81]. This estimates the total amount of floorspace expected in the West End and divides that into the total cost of the West End infrastructure projects, giving rise to a contribution sum of £102.39 per sq m floorspace. This was then multiplied out to refer to dwellings of different sizes and types, and

commercial floorspace to give the respective global sums required for residential and commercial development.

- 5.5.15 Apart from this evidence being applied retrospectively to justify the policy, contrary to guidance in PPS12, I consider that its robustness is highly questionable. In my opinion, this simplistic blanket approach does not properly demonstrate that the global sum is fairly and reasonably related in scale and kind to the proposed development and reasonable in all other respects, as required by paragraph B9 of Circ 05/2005. Nor does it clearly demonstrate how other sources of funding will be taken into account. I have, therefore, rejected that suggested change. In order to make the AAP sound the reference in Policy WE29 to a schedule in Appendix 8 should be deleted in accordance with (IC31). This would make the Policy consistent with the approach set out in Annex B of Circ. 05/2005.
- 5.5.16 However, in order to enable future production of a robust SPD and to help the immediate negotiation process I consider that there are several pieces of information that could be retained in an amended Appendix 8 and others which could be added from the evidence base relating to the concept of streamlined contributions in the West End, namely Tables 5 and 6 from [CD34]). Therefore in order to make the AAP sound Appendix 8 should be deleted and replaced with a new Appendix 8 in accordance with (IC33).
- 5.5.17 Also, for consistency and to ensure compliance with the tests of Circ 05/2005, Policy WE2: New links should amended so that its third sentence states; "Where appropriate development of sites on or having an impact upon those identified for new links will be expected to help deliver them...". This required change is set out as (IC7).
- 5.5.18 Similarly, the words "having an impact upon" should be added to Policy WE3: Redesign of streets and junctions in the West End, as detailed in (IC8). However, a further problem with Policy WE3 is that it is negatively worded, so although it displays the developer contribution symbol, in practice these could not be sought. To rectify this it is necessary to include a new sentence at the beginning of the Policy, as detailed in (PC29), which informs that; "Developer contributions will be sought towards the redesign of streets and junctions as set out in the AAP."
- 5.5.19 The first sentence of the last paragraph of Policy WE29 refers to the timing of payment of the developer contributions; before the commencement of development. In my opinion this blanket requirement is unreasonable and could give rise to serious cash flow difficulties particularly on large schemes that could jeopardise delivery of the infrastructure projects. I have amended (PC55) to change the timing to require that the sum should be paid upon commencement of the development and that phased payments may be acceptable in the case of large-scale developments, subject to an additional administration charge. This will add necessary flexibility to the Policy and will make the AAP sound in this regard.
- 5.5.20 However, in order to ensure that the combined requirements of the AAP, for most developments to provide both affordable housing and streamlined contributions, do not prevent schemes from coming forward because of viability considerations, I consider that further flexibility should be added to the application of Policy WE29. Based on (PC57) a new paragraph should be added to the end of section 6.2, which provides for a cascading approach to the provision for affordable housing and streamlined contributions to take account of viability considerations.
- 5.5.21 Throughout the AAP a developer contribution symbol is attached to those policies for which developer contributions are depended upon for their implementation. However, I am satisfied from the evidence that as drafting errors the symbol was missed from Policy WE6: Frideswide Square and the railway station forecourt and from Policy WE19: Amenities to support new housing, since it is clear from the text that developer contributions would be required in respect of such proposals. For clarity and soundness, the developer contribution symbols should be added to Policies WE6 and WE19, in accordance with (PC30) and (PC8).

- 5.5.22 Section 6.3 and Policy WE30 refer to the pooling of the developer streamlined contributions, because it will not be practical in most cases for a single development to provide all the necessary associated infrastructure. The apportioning of the pooled contributions to the various identified projects will be discussed and agreed by the West End Partnership, which includes the City and County Councils, who are the delivering authorities. There is a statement of common ground between the two authorities on precisely how the contributions will be collected and held, and how and when they will be allocated and spent [CD110]. In the interests of clarity and transparency section 6.3 of the AAP should be amended in accordance with (PC49) to refer to this process.
- 5.5.23 To summarise, I conclude that the approach of the AAP towards implementation, monitoring and delivery is unsound in respect of tests iv, vii, viii and ix, because it contains insufficient detail of when, how and by whom its policies and proposals will be delivered. Furthermore, the precise details of the collection of streamlined contributions and their apportionment to identified infrastructure projects in the West End lack transparency, robust supporting evidence and exceed the provisions of Circ 05/2005. Thus the AAP fails to meet soundness tests iv, vii, viii and ix.
- 5.5.24 **The following changes are necessary to make the AAP sound in respect of its implementation and delivery mechanisms: PC8, PC27, PC29, PC30, PC49, PC54, PC55, PC56, PC57, IC7, IC8, IC9, IC10, IC31, and IC33. These changes require the replacement of Appendices 8 and 9 of the AAP, minor changes to Policies WE2, WE3, WE6, WE19, WE29, WE30 and WE31 and minor changes to sections 6.2, 6.3, 6.4 and 6.5 of the AAP.**

OTHER MATTERS

- 6.1 Some representations raise issues which go outside the context and purpose of the AAP, because they relate either to detailed elements of policies or to matters beyond the scope of the AAP. Some points raised in the representations are not directly related to the tests of soundness or are not central to my conclusions on the overall soundness of this AAP. In some cases, they suggest changes to improve the text, which is not part of the soundness process. The Council has also suggested some minor changes to the wording of policies and accompanying text to reflect relevant suggestions and points made in the representations or at the hearing sessions, and to clarify various matters, correct errors and amend the grammar.
- 6.2 I have considered all the other points made in the representations and during the Examination, including all of the changes suggested by the Council in [CD 81] and in the representations, but I find no justification for recommending any further changes to the AAP other than those detailed in Annex A of this report. However, I endorse the suggested minor changes to the policies, text and appendices, as set out in Annex B of this report, in the interests of coherence, clarity, consistency, grammar and accuracy.

OVERALL RECOMMENDATION

- 7.1 **I recommend that with the amendments referred to in this report, which are set out in detail in Annex A, the Oxford West End Area Action Plan Development Plan Document and the accompanying Proposals Map satisfy the requirements of s20 (5) (a) of the 2004 Act and the associated Regulations, are made sound in the context of s20 (5) (b) of the 2004 Act and meet all of the tests of soundness in PPS12 (paragraph 4.24).**

Shelagh Bussey

SHELAGH BUSSEY
Inspector